

ORDINANCE 18-15

**AN ORDINANCE OF THE TOWNSHIP OF JACKSON,
COUNTY OF OCEAN, STATE OF NEW JERSEY,
AMENDING AND SUPPLEMENTING CHAPTER 310 OF
THE TOWNSHIP CODE TO REGULATE THE PRACTICE
OF REAL ESTATE SOLICITATIONS AND ESTABLISH A
“NO KNOCK” REGISTRY**

WHEREAS, protecting the private residents and taxpayers of the Township of Jackson from unwanted annoyance of itinerant merchants, peddlers and solicitors protects the peace in the community; and

WHEREAS, requiring peddlers, solicitors, and itinerant vendors to register may deter inappropriate conduct; and

WHEREAS, the Township of Jackson does not have any desire to interfere with an individual’s First Amendment or free speech rights, open dialogue, and exchange of opinions; and

WHEREAS, the Township desires to ensure the protection of the health, safety, and welfare of its citizenry; and

WHEREAS, after consideration, the Jackson Township Council has determined that it is in the best interest of the citizens of Jackson to amend the current Chapter 310 and replace it with a new Chapter 310 to provide for new and updated regulations which outline guidelines for peddlers, solicitors, and itinerant vendors within the Township of Jackson;

NOW THEREFORE, BE IT ORDAINED, by the governing body of the Township of Jackson, County of Ocean, State of New Jersey, as follows:

SECTION I. The Township Code of the Township of Jackson is hereby amended and supplemented so as to amend Chapter 310, entitled, “Peddling and Soliciting,” so as to amend § 310-1 et seq., which shall read as follows:

§310-1. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

CANVASSING – Door-to-door soliciting or soliciting by the use of circulars, visitations, or any other means, where the canvasser or his or her employer has not been invited or requested by the owner (as defined below), to obtain a listing of real property or to confer with the owner regarding a real estate transaction. This applies to private, personal and professional activity alike.

COMMERCIAL SOLICITATION or SOLICITATION – the act of asking, bartering, or communicating in any other such manner, whether orally, or by written or printed material, direct or implied, by an individual or group of individuals for a for-profit purpose, including the purchase or intimidation of residents to sell their real property. Solicitation is not communication that is political, religious, or charitable in nature and does not involve solicitation of money, funds, contributions, or anything of value.

ITINERANT VENDOR – any person who sets up or operates a temporary business on privately owned property, whether improved or unimproved, in the Township, soliciting, selling, or taking orders for, or offering to sell or take orders for any goods or services. A temporary business is one that continues for forty-five (45) days or less; and, exists whether solicitation is from a stand, vehicle, or freestanding. Any business that exists more than forty-five (45) days shall be deemed to be a permanent occupancy and is required to obtain a certificate of occupancy from the building inspection department.

MOTOR VEHICLE – Any vehicle used for the displaying, storing, of articles offered for sale by a vendor, which is required to be registered with the New Jersey Department of Motor Vehicles.

OWNER – The lessee, sublessee, assignee, managing agent or other person having the right of ownership or possession or to sell, rent, or lease any real property.

PERSON – Any individual, but not a corporation, partnership, or any form of business entity.

PURCHASER – Any occupant, prospective occupant, lessee, prospective lessee, buyer, prospective buyer, or any agent thereof.

RESIDENCE – any separate living unit occupied for residential purposes by one (1) or more persons, contained within any type of building or structure.

VENDING UNIT - Any vehicle or device which may be moved without assistance of a motor; is not required to be registered with the New Jersey Department of Motor Vehicles; and is used for the displaying, storing or transporting of articles offered for sale by a vendor.

VENDOR - Any person who goes from house to house or place to place, by foot or any means of conveyance, selling goods or services or soliciting orders for future delivery of goods or services. "Vendor" shall mean the same as "peddler," "hawker" and "solicitor."

§310-2. License and notice requirements

A. Any person, corporation, partnership, limited liability company, or other institution or entity that canvasses in order to obtain listings of real property, or to bring about the sale, lease, or purchase of real property, must provide advanced written notice to the Township Clerk before engaging in such activities. The advanced notice must provide the following information:

1. The names and addresses of the persons engaging in the canvassing, itinerant vending, or soliciting; and

2. The names and addresses of the individuals or companies by which such persons are employed; and
3. A listing of the streets or streets in the Township in which the canvassing, itinerant vending, or soliciting will take place and when; and
4. The starting and ending dates in which the canvassing, itinerant vending, or soliciting will take place; and
5. The applicant's places of residence for the preceding five years; and
6. A complete description of any vending unit to be used, including the make, model, and serial number; and
7. A complete description of any motor vehicle to be used, including the make, model, color and registration number and all insurance information, including the name and address of the carrier, policy number and type of coverage.
8. Whether or not the applicant has ever had an application to conduct a vending business denied or revoked and, if so, the details thereof.
9. Proof of an insurance policy issued by a New Jersey licensed company protecting the applicant and the Township from all claims or damages to property and bodily injury, including death, which may arise in connection with the applicant's vending business activities. Said policy shall name the Township of Jackson as an additional insured and shall provide that the policy may not be terminated prior to the expiration date without at least 30 days' advance written notice to the office of the Township Clerk. The minimum amounts of insurance coverage to be maintained are:
 - a. Personal injury: \$100,000 per person; \$300,000 per occurrence.

b. Property damage: \$50,000.

10. A copy of the certificate of inspection issued by the Ocean County Board of Health in the case of vendors seeking to engage in the business of vending food and/or beverages.

11. Two one-inch-square photographs showing the applicant's face shall accompany the application.

- B. The notice required hereunder must be filed with the Township Clerk no less than 14 business days prior to the scheduled start date.
- C. Provided the notice requirements have been satisfied, the Township Clerk shall issue a permit allowing the canvassing, or soliciting to take place. This permit shall be valid for a period not to exceed thirty (30) days from the date of issuance. Once expired, the permit must be renewed following the same notice requirements.
- D. All itinerant vending or vending registration certificates shall be valid for a period of one year from the date of issue and are not transferrable or assignable. Each vendor shall operate only one vending unit at a time. All vendors shall notify the Township, in writing, within 30 days of any changes in the information contained in the registration application.
- E. There is no payment necessary for canvasser.
- F. Upon issuance of the permit, a registration certificate shall be issued to the applicant. The canvasser, itinerant vendor or solicitor shall carry the registration certificate at all times and shall include:

- 1. The signature of the Township Clerk;
- 2. The name and address of the canvasser, itinerant vendor, or solicitor;

3. If applicable, the type of vending business engaged in, including the description of goods or services being offered;
4. The date of issuance and expiration; and
5. If applicable, a description of any vending unit and/or motor vehicle used in the vending business, including any identifying registration and/or serial numbers.

G. Any certificate of health compliance required by the Ocean County Board of Health shall be displayed on the vending unit and/or motor vehicle in plain view of the public at all times.

§310-3. Time, Place, and Manner Restrictions

No individual that has been given a license to canvass, be an itinerant vendor, or solicit may operate beyond the timeframe outlined below:

1. 10:00 am – 6:00 pm Monday through Saturday.
2. 12:00 pm – 2:00 pm On Sunday.

Further, no individual or group of individuals may knowingly enter private property that has displayed a “no knock” sticker or is on the “no knock” registry.

§310-4. Suspension or revocation of registration.

Any registration issued in accordance with the provision of this chapter may be suspended or revoked by the Jackson Township Municipal Court for any of the following reasons:

- A. Fraud or misrepresentation in the application process.
- B. Fraud or misrepresentation made during the course of conducting canvassing, itinerant vending, or soliciting.

- C. Conducting the business of canvassing, itinerant vending, or soliciting in such a manner as to create a public nuisance or jeopardize the public's health safety or welfare.
- D. Operating beyond the time, place, and manner restrictions outlined in §310-3.

§310-5. Vending regulations

The business of vending shall be subject to the following regulations:

- A. The business of vending may be conducted between the hours of 7:00 a.m. and 9:00 p.m., and all vending units shall be off the streets and sidewalks of the Township between 9:00 p.m. and 7:00 a.m.
- B. All vending units must be mobile.
- C. There shall be no vending within 200 feet of any school, church, synagogue or other house of worship while the same is in session.
- D. No vending units or motor vehicles shall be left unattended for any reasons on the streets or sidewalks of the Township.
- E. All vendors in the business of selling food and/or beverages shall have a litter receptacle available for public use. All litter and refuse shall be collected and taken away by the vendor when he or she leaves the location.
- F. All materials and merchandise related to the vending business must be located on the vending unit.
- G. No vendor shall offer for sale any merchandise other than that described in his/her registration.
- H. No vendor shall have an exclusive right to any location in the public streets nor shall be/she be permitted to vend from a permanent public location.

- I. No vendor shall be permitted to operate in any area where such operation might unreasonably impede traffic, jeopardize the public's health, safety or welfare or create a public nuisance.
- J. No vendor shall place his vending unit within 500 feet of any location already being used by another vendor or established merchant.

§310-6. Jackson Township “No Knock” Registry.

- A. The Township Clerk shall prepare a list of addresses of those premises where the owner and/or occupant has notified the Clerk that canvassing, peddling, itinerant vending, and door-to-door sales enterprises are not permitted on the premises (hereinafter referred to as the Jackson Township “No Knock” Registry). Notification shall be completion of a form available at the Township Clerk’s office during normal business hours. The list shall be updated monthly.
- B. Any owner and/or occupant who has requested enlistment on the Jackson Township “No Knock” Registry pursuant to Subsection A herein shall be able to procure from the Clerk’s office a sticker for display at his/her/its premises indicating enlistment on the Jackson Township “No Knock” Registry. The first sticker shall be provided free of charge and may be picked up in person during regular business hours. If a replacement sticker is required, the individual may pick up a replacement at the Clerk’s office at no charge. A fee of \$1 will be applied for any individual who desires to have the sticker mailed to him or her, which shall be payable to the Township Clerk. All previously issued stickers that reference Jackson Township Ordinance § 41-08 shall remain in full force and effect.

- C. The Township Clerk shall distribute the current Jackson Township “No Knock” Registry to a licensee at the time of issuance of a license to peddle, canvass, itinerant vend or otherwise door-to-door sell, pursuant to the provisions of this chapter. The licensee shall not peddle, canvass, itinerant vend or conduct door-to-door sales at any premises identified on the then-current Jackson Township “No Knock” Registry.
- D. Although the most current list of registrants on the Jackson Township “No Knock” Registry shall be provided by the Township Clerk, it is the responsibility of the canvasser, itinerant vendor, or solicitor to have the most up-to-date list prior to performing their business.
- E. Any canvasser, peddler, itinerant vendor, or owner or employee of a door-to-door sales enterprise who violates any provision of this section, if convicted, shall be:
 - 1. Subject to a maximum ordinance violation fine of \$1,250.00 for the first offense;
 - 2. Subject to ninety (90) days in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days for any offense thereafter; and
 - 3. Subject to a permanent revocation of any license issued to the within chapter;
- F. Current Jackson Township “No Knock” Registrants are protected against the canvassing, itinerant vending, or soliciting activities regulated by this article without having to re-register.

§310-7. Prohibited discrimination.

No person shall engage in the following acts:

- A. The promoting, influencing, or attempt to promote or influence a property owner, occupant, or tenant to list for sale, sell, or remove from a lease real property by referring to race, color, sexual orientation, ethnicity, or religious affiliation of neighbors, prospective buyers, or other occupants of prospective occupants of real property.
- B. Induce directly or indirectly, or attempt to induce directly or indirectly, the sale or listing for sale of real property by representing that the presence or anticipated presence of persons of any particular race, religion, or national origin in the area has resulted or may result in:
 - 1. The lowering of property values;
 - 2. A change in the racial, religious, or ethnic composition of the block, neighborhood, or area in which the property is located;
 - 3. An increase in criminal or antisocial behavior in the area.
 - 4. A decline in the quality of the schools serving in the area.
- C. Make any representation (or misrepresentations) concerning the listing or sale of the anticipated listing for sale or the sale of any real property in any residentially zoned areas for the purpose of inducing or attempting to induce the sale or listing for sale of other real property in such area.
- D. Make any representation to any prospective purchaser that any block, neighborhood or area has, will, or might undergo an adverse change with respect to the religious, racial, or ethnic composition of the block, neighborhood or area for the purpose of discouraging the purchase of property in a particular area.
- E. Place a sign purporting to offer for sale any property that is not in fact offered for sale.

- F. Advertise for sale or rental, a property which is non-existent or which is not actually for sale or rental.
- G. Engage in or hire or conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest, create or play upon fear with the purpose of inducing or attempting to induce the sale or listing for sale of real property.
- H. To solicit or canvass any owner whose name and property address is included on the list maintained by the Township Clerk of persons requesting that they not be canvassed or solicited.
- I. To engage in any economic reprisal or any other form of intimidation against any person because that person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or conference under the terms of this article.
- J. To aid, abet, incite, compel or coerce any person to engage in any of the practices forbidden by this article or to obstruct or prevent any person from complying with the provisions of this article.
- K. Refer, directly or indirectly, or by implication, to race, color, creed, ethnicity, or sexual orientation in any advertisement or other solicitation offering real property for sale or rental.
- L. Solicit or attempt to solicit the sale or rental or the listing for sale or rental of real property without furnishing in written form to the owner or occupier of such real property the name of the person or organization soliciting such sale, rental, or listing.

§310-8. Enforcement.

- A. The Jackson Township Police Department is charged with enforcing the provisions of this article.
- B. Any person claiming to be aggrieved by an alleged unlawful practice forbidden by any section of this article may, by themselves, or by their attorney-at-law, make, sign, and file a complaint directly with the Police Department, or with the Township Clerk, who shall forward the complaint to the Police Department for a full investigation.
- C. In addition to any other enforcement actions, the Police Department or the Township Clerk may refer the complaint to the Real Estate Commission, the New Jersey Division of Civil Rights, or any other appropriate state or federal agency for disposition.

§310-9. Health and sanitation requirements.

Vendors of food and beverages shall comply with all standards and regulations set by the Ocean County Board of Health and shall provide the Township with copies of all certificates of inspection issued in accordance with the same.

§310-10. Appeal from denial or revocation of permit to canvass, itinerant vend or solicit.

A person denied a permit or who has had a permit removed, may appeal that action to the Mayor, or his or her designee, by submitting a letter to the Township Clerk within ten (10) days of the complained action. A hearing on such appeal will then be scheduled within seven (7) days after the receipt of the appeal, with the hearing to be held within thirty (30) days after receipt of the appeal. The Mayor, or his or her designee, shall render a decision on the appeal within seven (7) days after the date of the hearing which shall be final.

§310-11. Violations and Penalties.

As stated under §310-6(E)(1)-(3) of this Chapter, any canvasser, peddler, itinerant vendor, or owner or employee of a door-to-door sales enterprise who violates any provision of this section, if convicted, shall be:

1. Subject to a maximum ordinance violation fine of \$1,250.00 for the first offense;
2. Subject to ninety (90) days in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days for any offense thereafter; and
3. Subject to a permanent revocation of any license issued to the within chapter;

§310-12. Exemptions.

This article does not apply to real estate that is publicly advertised by sale or to “open houses,” sponsored by the owner or listed by real estate agents for a specific home on a specific date and time.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

Date: _____

MAYOR MICHAEL REINA

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Jackson, in the County of Ocean, State of New Jersey, held on **August 11, 2015**, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the **25th day of August, 2015**, at 7:30 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 95 W. Veterans Highway, Jackson, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.

ANN MARIE EDEN, RMC
Township Clerk, Township of Jackson